

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of )

Kenneth Lee Schnitzer, Sr. )  
Former Director of )  
BancPLUS Savings and Loan )  
Association )  
Houston, Texas, and Former )  
Director and Shareholder )  
of its Holding Company, )  
Edloe Corporation )

No.: DAL-94-23

Dated: June 8, 1994

ORDER OF PROHIBITION

WHEREAS, Kenneth Lee Schnitzer, Sr. ("Schnitzer") has executed a Stipulation and Consent to the Entry of An Order of Prohibition ("Stipulation") on May 31, 1994 (date); and

WHEREAS, Schnitzer, by his execution of the Stipulation without admitting or denying that such grounds exist, has consented and agreed to the issuance of this Order of Prohibition ("Order") by the Office of Thrift Supervision ("OTS"), pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(e).

NOW THEREFORE, IT IS ORDERED that:

1. Without the prior written approval of the OTS (acting through its Director or an authorized representative thereof) and, the "appropriate Federal banking agency" for the Federally regulated depository institution which is involved, Schnitzer may not hold any office in, or participate in any manner in the conduct of the affairs of any Federally regulated depository

institution or other entities that are described in Section 8(e)(7)(A)(i)-(vii) of the FDIA, 12 U.S.C. § 1818(e)(7)(A)(i)-(vii). Conduct prohibited by this Order, without the said prior written approval of the OTS and of the "appropriate Federal banking agency", includes, without limitation, (1) the solicitation, procuring, transfer, attempt to transfer, vote, or attempt to vote, any proxy, consent, or authorization with respect to any voting right in any institution described in Section 8(e)(7)(A)(i)-(vii) of the FDIA, 12 U.S.C. § 1818(e)(7)(A)(i)-(vii), hereinafter referred to as a "covered institution"; and (2) voting for a director, or serving or acting as an institution-affiliated party.

2. If approval is obtained from the Regional Director or, where appropriate, another "Federal banking agency", Schnitzer, upon becoming a director, officer, or controlling person of a Federally regulated depository institution or any holding company thereof, shall obtain advice of competent counsel of his duties and responsibilities, both initially and upon accepting such a position and when particular issues arise that may cause Schnitzer to be uncertain about his responsibilities.
3. Nothing in this Order, however, prohibits Schnitzer from any of the following activities, even though such activities may involve or relate to a covered institution;
  - (a) being a customer, depositor, or borrower of a covered institution; or
  - (b) owning stock, but less than a controlling interest as defined in Section 7(j) of the FDIA, § 1817(j) and 12 C.F.R. § 574.4, in a covered institution.

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Provided, however, that such activities may not be performed in a

manner that would make Schnitzer an "institution-affiliated party" as that term is defined at Section 3(u) of the FDIA, 12 U.S.C. § 1813(u).

4. The Stipulation is made a part hereof and is incorporated herein by this reference.
5. This Order is subject to the provisions of Section 8(j) of the FDIA, 12 U.S.C. § 1818(j), and shall become effective on the date it is issued, as shown in the caption above.

This Order shall remain in effect until terminated, modified, or suspended by the OTS, acting through the Regional Director or his Designee.

**OFFICE OF THRIFT SUPERVISION**

BY:   
Frederick R. Casteel  
Regional Director  
Midwest Regional Office  
Dallas, Texas

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Edloe Corporation )

No.: DAL-94-23

Dated: May 31, 1994

STIPULATION AND CONSENT TO THE ENTRY  
OF AN ORDER OF PROHIBITION

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, has informed Kenneth Lee Schnitzer, Sr. ("Schnitzer"), a former director of BancPLUS Savings and Loan Association, Houston, Texas (OTS No. 6433), (the "Association" or "BancPLUS"), and former director and shareholder of its holding company, Edloe Corporation (formerly Century Corporation), that the OTS is of the opinion that the grounds exist to initiate an administrative prohibition proceeding against Schnitzer pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(e)<sup>1</sup>; and

WHEREAS, Schnitzer desires to cooperate with the OTS and to avoid the time and expense of such administrative proceeding. For the purpose of this settlement only, without admitting or denying the factual findings and conclusions reached by the OTS or that such grounds exist for the aforesaid administrative proceeding, Schnitzer hereby stipulates and agrees to the terms

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1. All references in the Stipulation and Consent and the Order of Prohibition to the United States Code are as amended.

of this Stipulation and Consent to the Entry of an Order of Prohibition, in consideration of the agreement of the OTS to forbear from initiating any other civil or administrative proceedings against Schnitzer, arising out of Schnitzer's actions at BancPLUS and Edloe Corporation, known or discovered by the OTS prior to the entry of the accompanying Order.

1. JURISDICTION AND OTS's FINDINGS OF FACTS

- (a) Until August 9, 1989, the Federal Savings and Loan Insurance Corporation (the "FSLIC") was the regulatory agency with jurisdiction over federally insured, state-chartered savings associations, pursuant to Section 407 of the National Housing Act ("NHA"), 12 U.S.C. § 1730. The Federal Home Loan Bank Board ("FHLBB") was the operating head of the FSLIC. FSLIC and FHLBB hereinafter are referred to as FHLBB. The Principal Supervisory Agent of the Federal Home Loan Bank of Dallas ("FHLB-Dallas") was, at all times relevant hereto, the agent and representative of the FHLBB in supervising and examining savings and loan holding companies and savings associations located in Texas.
- (b) As of August 9, 1989, pursuant to the provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA"), the OTS succeeded the FSLIC as the regulatory agency charged with the supervision and regulation of all savings associations and savings and loan holding companies under the provisions of Federal Deposit Insurance Act ("FDIA"), Sections 3(q)(4) and 8(e), 12 U.S.C. §§ 1813(q)(4) and 1818(e).
- (c) BancPLUS was a state-chartered savings association organized under the laws of the State of Texas, and was a savings

association as defined by Section 3(b) of the FDIA, 12 U.S.C. § 1813(b) and Section 2(4) of the Home Owners' Loan Act of 1933, 12 U.S.C. § 1462(4). Accordingly, it was an "insured depository institution" as defined by Section 3(c)(1) of the FDIA, 12 U.S.C. § 1813(c)(1), and an insured institution as defined by Section 408(a) of the NHA, formerly 12 U.S.C. § 1730a(a), whose accounts were insured by the FSLIC.

- (d) Schnitzer, at all times relevant to the allegations set forth herein, was a director of BancPLUS and as such is deemed to be an "institution-affiliated party" as defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u). Schnitzer served in the capacity of director of BancPLUS within 6 years of the date hereof. (See 12 U.S.C. § 1818(1)(3)).
- (e) The OTS, as successor to the FSLIC, and pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q), is the "appropriate Federal banking agency" to maintain an enforcement proceeding against such savings associations and/or their institution-affiliated parties. Therefore, Schnitzer is subject to the authority of the OTS to initiate and maintain a cease and desist proceeding against him pursuant to Section 8(e) of the FDIA, 12 U.S.C. § 1818(e).
- (f) The OTS is of the opinion that Schnitzer acted with willful disregard for safe and sound practices, in violation of 12 C.F.R. §§ 563.17-1 (re-codified at 563.170), and 584.3, and in breach of fiduciary duty to BancPLUS, with regard to certain real estate transactions described in Section VI.A. of BancPLUS' July 27, 1987 Report of Examination, pages 9-13.

2. CONSENT

Schnitzer consents to the issuance by the OTS of the accompanying Order of Prohibition. He further agrees to comply with its terms upon issuance and stipulates that the Order complies with all requirements of law, including Section 8(e) of the FDIA, 12 U.S.C. § 1818(e).

3. FINALITY

The Order is issued by the OTS under the authority of Section 8(e) of the FDIA, 12 U.S.C. § 1818(e). Upon issuance of the Order, it shall be a final order that is effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i).

4. WAIVERS

Schnitzer waives the following rights:

- (a) the right to be served with a written notice of the OTS's charges against him (see Section 8(e) of the FDIA, 12 U.S.C. § 1818(e));
- (b) the right to an administrative hearing of the OTS's charges against him (see Section 8(e) of the FDIA, 12 U.S.C. § 1818(e));
- (c) the right to seek judicial review of the Order, including, without limitation, such right provided by Section 8(h) of the FDIA, 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order; and
- (d) any and all claims for the award of fees, costs or other expenses related to this OTS enforcement matter and/or Order, whether arising under common law or under the Equal Access of Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412.

5. ACKNOWLEDGMENTS

- (a) Schnitzer acknowledges and agrees that this Stipulation and Consent and the Order, does not compromise, settle, dismiss,

resolve, or in any way affect any civil actions, charges against, or liability of Schnitzer that arise pursuant to this action or otherwise, and that may be or have been brought by the Resolution Trust Corporation or any other governmental entity, other than the OTS.


- (b) Schnitzer acknowledges that Section 8(j) of the FDIA, 12 U.S.C. § 1818(j), authorizes criminal penalties for knowing violations of the Order.

WHEREFORE, Kenneth Lee Schnitzer executes this Stipulation and Consent to the Entry of An Order of Prohibition intending to be legally bound hereby.

By:   
KENNETH LEE SCHNITZER, SR.

Accepted by:

OFFICE OF THRIFT SUPERVISION

  
Frederick R. Casteel  
Regional Director  
Midwest Regional Office  
Dallas, Texas